

ENTERED

November 04, 2019

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA, §
 §
v. § Criminal Action No. H-19-497
 §
STEVEN LEE SMITH §

ORDER

Pending before the Court is Defendant's Motion to Suppress (Document No. 16). On October 30, 2019, the Court conducted a hearing on the motion to suppress (the "Suppression Hearing"). Having considered the motion, submissions, evidence and representations presented during the Suppression Hearing, and the applicable law, the Court determines the motion should be denied.

I. BACKGROUND

On March 28, 2019, law enforcement in Montgomery County, Texas conducted a traffic stop (the "Stop") of Smith and arrested Smith. On July 16, 2019, a federal grand jury in Houston, Texas returned an indictment against Smith charging him with one count of Felon in Possession of a Firearm. On October 4, 2019, Smith moved to suppress evidence seized during, and deriving from, the Stop. On October 30, 2019, the Court conducted the Suppression Hearing.

II. LAW AND ANALYSIS

Smith moves to suppress evidence seized during, and deriving from, the Stop,

contending Silva lacked justification to support the Stop. The Government contends the Stop was justified because: (1) Smith was not in compliance with § 547.306(b) of the Texas Transportation Code; or (2) even if noncompliance with § 547.306(b) does not constitute a traffic violation, Silva's understanding of § 547.306(b) was reasonable and justifies the Stop.

The Fourth Amendment to the United States Constitution protects individuals “against unreasonable searches and seizures.” U.S. Const. amend. IV. “Traffic stops are deemed seizures for the purposes of the Fourth Amendment.” *United States v. Lopez-Moreno*, 420 F.3d 420, 430 (5th Cir. 2005). The legality of a traffic stop is analyzed under the framework articulated in *Terry v. Ohio*, 392 U.S. 1 (1968). The *Terry* analysis is two-pronged, requiring the Court to determine whether the officer's action was: (1) justified at its inception; and (2) reasonably related in scope to the circumstances which justified the interference in the first place. *Lopez-Moreno*, 420 F.3d at 430. “For a traffic stop to be justified at its inception, an officer must have an objectively reasonable suspicion that some sort of illegal activity, such as a traffic violation, occurred, or is about to occur, before stopping the vehicle.” *Id.* An officer's mistaken understanding of the relevant traffic law, if reasonable, justifies a traffic stop. *Heien v. North Carolina*, 574 U.S. 54, 67 (2014).

At the Suppression Hearing, the Government and Smith stipulated to the facts relative to the motion to suppress. Specifically, both parties agree Department of

Public Safety Trooper John Silva (“Silva”) stopped Smith for operating a motorcycle with red neon LED ground effect lights based on a supposed violation of § 547.306(b). The parties further agree that during the Stop, Silva discovered Smith had a firearm in his possession and Smith has a previous felony conviction. The parties agree the only issue for the Court to decide is whether, as a matter of law, Silva was justified in stopping Smith for having red neon LED ground effect lights under § 547.306(b).

Section 547.306(b) states, “[a] person may ride a motorcycle or moped equipped with LED ground effect lighting that emits a non-flashing amber or white light.” Tex. Civ. Prac. & Rem. Code § 547.306(b). In 2015, the Texas Legislature enacted § 547.306(b) and no state or federal court has yet interpreted § 547.306(b). Smith views the plain language of § 547.306(b) as permissive in nature and not prohibitive of red neon LED ground effect lights. Smith points to the legislative history of § 547.306(b), which states, “[i]t is the committee’s opinion that this bill does not expressly create a criminal offense”¹ However, it is a misdemeanor to operate a motorcycle that does not comply with equipment standards and requirements established by Chapter 547. Tex. Civ. Prac. & Rem. Code § 547.004; *see also* Tex. Civ. Prac. & Rem. Code § 547.002. Section 547.306(b) was codified

¹ *Defense Hearing Exhibits*, Document No. 21 at 2.

within Chapter 547. Furthermore, other legislative history of § 547.306(b) states the purpose of § 547.306(b) is to “provide for the legal use [of LED ground effect lighting equipment] in Texas” and that “such lighting is only permissible . . . if it emits a non-flashing amber or white light.” Texas Bill Analysis, S.B. 1918, 84th Leg., Reg. Sess. (Tex. 2015). The Government views the use of “may” in § 547.306(b) as allowing a motorcyclist to choose whether to have LED ground effect lighting, and if the motorcyclist so chooses, the exclusive color option is white or amber. It is undisputed Silva’s reason for the Stop was because Smith had red neon LED ground effect lights, not white or amber.

In light of § 547.306(b)’s plain language and legislative history, the Court finds Silva’s understanding of § 547.306(b), even if mistaken, was reasonable.² The Court therefore finds Silva was justified in making the Stop of Smith. Accordingly, the motion to suppress is denied.

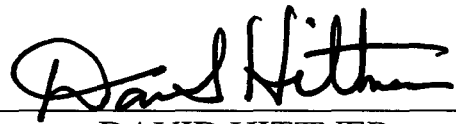
III. CONCLUSION

Based on the foregoing, the Court hereby

ORDERS that Defendant’s Motion to Suppress (Document No. 16) is **DENIED**.

² The parties also dispute whether § 547.306(b) actually prohibits red neon LED ground effect lights. In light of the Court’s conclusion that Silva’s understanding of § 547.306(b) was reasonable to justify the Stop, the Court need not address this dispute.

SIGNED at Houston, Texas, on this 1 day of November, 2019.

A handwritten signature in black ink, appearing to read "David Hittner", is written over a horizontal line.

DAVID HITTNER
United States District Judge